

# DANIEL P. MURPHY

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March 22, 2011

## BY E-FILING

Ms Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E. Street, SW  
Washington, D.C. 20423-0001

IN RE: A & R Lines, Inc. - Abandonment Exemption - in Cass and Pulaski Counties, IN  
STB Docket No. AB-855 (Sub-No. 1X)

Dear Ms. Brown,

Attached please find for e-filing in STB Docket No. AB-855 (Sub-No. 1X), A & R Lines, Inc. - Abandonment Exemption - in Cass and Pulaski Counties, IN, a Notice of Intent Partially to Terminate Trail Use of Friends of the Panhandle Pathway, Inc.

Expedited consideration of the Notice is respectfully requested.

Copies of this filing have been sent by regular mail as indicated in the attached certificate of service.

If you have any questions, or require any additional information to assist you in this matter, please feel free to contact me.

Sincerely,

  
Daniel P. Murphy

DPmkz

Enclosures

cc: The Friends of the Panhandle Pathway, Inc.

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

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STB Docket No. AB-855 (Sub-No. 1X)

A & R LINE, INC. - ABANDONMENT EXEMPTION -  
IN CASS AND PULASKI COUNTIES, IN

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**EXPEDITED CONSIDERATION RESPECTFULLY REQUESTED**

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NOTICE OF INTENT PARTIALLY TO TERMINATE TRAIL USE  
OF  
FRIENDS OF THE PANHANDLE PATHWAY, INC.

DANIEL P. MURPHY  
Attorney at Law  
101 W. Main Street  
P.O. Box 137  
Winamac, Indiana 46996  
Tel: (574) 946-6850

Attorney for

FRIENDS OF THE PANHANDLE  
PATHWAY, INC.

Dated: March 22, 2011

BEFORE THE  
SURFACE TRANSPORTATION BOARD  
WASHINGTON, D.C.

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STB Docket No. AB-855 (Sub-No. 1X)

A & R LINE, INC. - ABANDONMENT EXEMPTION -  
IN CASS AND PULASKI COUNTIES, IN

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**EXPEDITED CONSIDERATION RESPECTFULLY REQUESTED**

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NOTICE OF INTENT PARTIALLY TO TERMINATE TRAIL USE  
OF  
FRIENDS OF THE PANHANDLE PATHWAY, INC.

The Friends of the Panhandle Pathway, Inc., of Winamac, Indiana (hereinafter "FPP"), pursuant to 49 C.F.R. 1152.29(c)(2), gives notice of its intent to terminate its trail use of a portion of the right-of-way of the railroad line formerly operated by the Pittsburgh, Cincinnati, Chicago and St. Louis Railroad Company, the A & R Line, Inc. (succeeded by the Toledo, Peoria and Western Railroad which is now part of Rail America, Inc.) and sold to the Indiana Trails Fund, Inc. and acquired by FPP pursuant to the Board's Decision and Notice of Interim Trail Use or Abandonment, served June 15, 2009.

The portion of the right-of-way which FPP proposes to relinquish as the trail operator is a strip of ground adjacent to and immediately east of the 100 foot corridor of the original railroad

right-of-way. The strip of ground is approximately a rectangular parcel 376 feet in length and approximately 100 feet in width laying directly east of, adjacent to, and parallel with the 100 foot corridor right-of-way, but not part of the 100 foot corridor, containing approximately 0.82 acre. This parcel lies directly east of the 100 foot wide double track corridor of the Panhandle Pathway right of way, bordered on the North by Oak Street (an unpaved gravel road) and on the South by the Star City Cemetery, in Section 8, Township 29 North, Range 1 West in Van Buren Township, Pulaski County, Indiana. Transfer of this strip of ground would not impact the original 100 foot right-of-way corridor, and none of the original right-of-way would be removed from the rail banking and interim trail use. The purpose of freeing this strip of land of the trails condition is to permit its abandonment and unencumbered conveyance by FPP to the Star City Regional Sewer District, which seeks the land for construction and operation of a Pumping Station as part of its sewage collection system for the area in and around Star City, Indiana. Thus FPP will continue to own a corridor right-of-way of 100 feet in width exclusive of the strip on which the proposed pumping station would be located. This sale will in no way now, or in the future, interfere with restoration of railroad service and/or interim trail use.

Expedited consideration is requested in this matter because the Star City Regional Sewer District needs to acquire the property and commence construction in the very near future to insure it remains in compliance with certain deadlines applied to grants and other funding sources received in connection with its project. Upon issuance of the revised Decision and Notice of Interim Trail Use or Abandonment requested by this Notice, the

conveyance by FPP to the Star City Regional Sewer District would be accomplished expeditiously.

1. A copy of the Decision and Notice of Interim Trail Use or Abandonment, served June 15, 2009, is attached.

2. A copy of map showing the location of Star City, Indiana along the 21 mile rail corridor of the FPP, is attached.

2. A copy of survey drawing showing the parcel to be sold adjacent to the 100 foot corridor right-of-way owned by the FPP, is attached.

3. Copies of the revised Decision and Notice of Interim Trails Use or Abandonment should be sent, as follows:

a. The railroad formerly owning and operating the right-of-way:

Rail America, Inc.  
7411 Fullerton Street  
Suite 300  
Jacksonville, FL 32256

Vice President, Real Estate  
RailAmerica, Inc.  
4040 Broadway Street, Suite 200  
San Antonio, TX 78209-6300

Vice President, Litigation Counsel  
RailAmerica, Inc.  
7411 Fullerton Street, Suite 300  
Jacksonville, FL 32256

b. The owner of the right-of-way and trail operator:

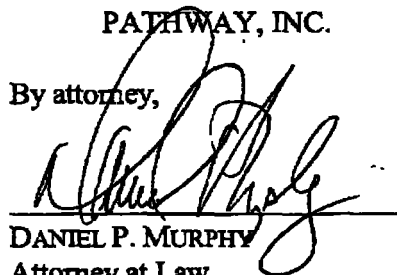
Friends of the Panhandle Pathway, Inc.  
623 W. 11<sup>th</sup> Street  
P.O. Box 153  
Winamac, IN 46996

WHEREFORE, the Friends of the Panhandle Pathway, Inc. of Winamac, Indiana, asks that the Decision and Notice of Interim Trail Use or Abandonment be revised and reissued to relieve the approximate 0.82 acre strip adjoining the 100 foot right-of-way being conveyed by it to the Star City Regional Sewer District of its commitment for future railroad service and for trail use in the interim and to permit the affected railroad line's abandonment to be accomplished effective April 10, 2011, but otherwise to leave the remainder of the original right-of-way described in the Decision, served June 15, 2009, subject to the trails condition in effect and available for the restoration of railroad service and for uses consistent with the National Trails System Act in the meantime.

Respectfully submitted,

FRIENDS OF THE PANHANDLE  
PATHWAY, INC.

By attorney,



DANIEL P. MURPHY  
Attorney at Law  
101 W. Main Street  
P.O. Box 137  
Winamac, Indiana 46996  
Tel: (574) 946-6850

40010  
DO

SERVICE DATE – JUNE 15, 2009

SURFACE TRANSPORTATION BOARD

DECISION AND NOTICE OF INTERIM TRAIL USE OR ABANDONMENT

STB Docket No. AB-855 (Sub-No. 1X)<sup>1</sup>

A & R LINE, INC.—ABANDONMENT EXEMPTION—  
IN CASS AND PULASKI COUNTIES, IN

Decided: June 12, 2009

By decision and notice of interim trail use or abandonment (NITU) served on November 18, 2003, as revised by decision served on March 5, 2004, the Board, under 49 U.S.C. 10502, exempted from the prior approval requirements of 49 U.S.C. 10903 the abandonment by A & R Line, Inc. (A&R) of a line of railroad known as the A&R line.<sup>2</sup> At the same time, the Board exempted the discontinuance of service by Toledo, Peoria & Western Railway Corporation (TP&W) over the same line. The line extends from milepost 0.0W at Kenneth to the end of the line at milepost 21.0W at Winamac, a distance of 21.0 miles in Cass and Pulaski Counties, IN. The exemption was granted subject to environmental and employee protective conditions, and conditions requested by Indiana Trails Fund, Inc. (ITF) for rail banking/interim trail use under the National Trails System Act, 16 U.S.C. 1247(d) (Trails Act), and for public use. The exemption permitting abandonment of the 21-mile line became effective, subject to those conditions, on the April 22, 2004 service date of the decision terminating the offer of financial assistance process.<sup>3</sup> In this proceeding, the Board is granting the request to vacate the existing NITU issued to ITF and to issue a replacement NITU authorizing Friends of the Panhandle Pathway, Incorporated (FPP) as the new interim trail use proponent for the rail line.

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<sup>1</sup> Prior decisions in this proceeding also have embraced Toledo, Peoria & Western Railway Corporation—Discontinuance of Service Exemption—in Cass and Pulaski Counties, IN, STB Docket No. AB-847 (Sub-No. 2X).

<sup>2</sup> The March 5, 2004 decision revised the November 18, 2003 decision and NITU to correct the description of the subject line to cover 21 miles of rail line, rather than 15.9 miles as the petitioners originally had indicated.

<sup>3</sup> By a decision served on April 13, 2004, the Board denied a request filed by Pulaski County asking that the Board require the railroad or not-for-profit interim trail user to be bonded or to escrow funds and be obligated for clean-up costs.

By letter dated May 29, 2009, ITF and FPP jointly request that the Board substitute FPP as the interim trail use proponent with respect to the 21-mile line. By letter dated May 15, 2009, TP&W supports the request to substitute FPP as the interim trail use proponent.<sup>4</sup>

FPP has submitted the required statement of willingness to assume financial responsibility for interim trail use and rail banking in compliance with 49 CFR 1152.29. FPP also acknowledges that use of the right-of-way for trail purposes is subject to possible future reconstruction and reactivation for rail service. Accordingly, the request will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

**It is ordered:**

1. This proceeding is reopened.
2. The NITU served on November 18, 2003, as revised by decision served on March 5, 2004, is vacated.
3. A replacement NITU applicable to FPP as interim trail user is issued, effective on the service date of this decision and notice, subject to any environmental conditions that remain in effect.
4. The new trail user is required to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.
5. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user's continuing to meet the financial obligations for the right-of-way.
6. If the new trail user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified date.

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<sup>4</sup> According to ITF and FPP, ITF entered into a trail use agreement with A&R in 2005 and acquired the right-of-way for trail use. TP&W became the successor to A&R, both of which were part of the RailAmerica, Inc. family of carriers.



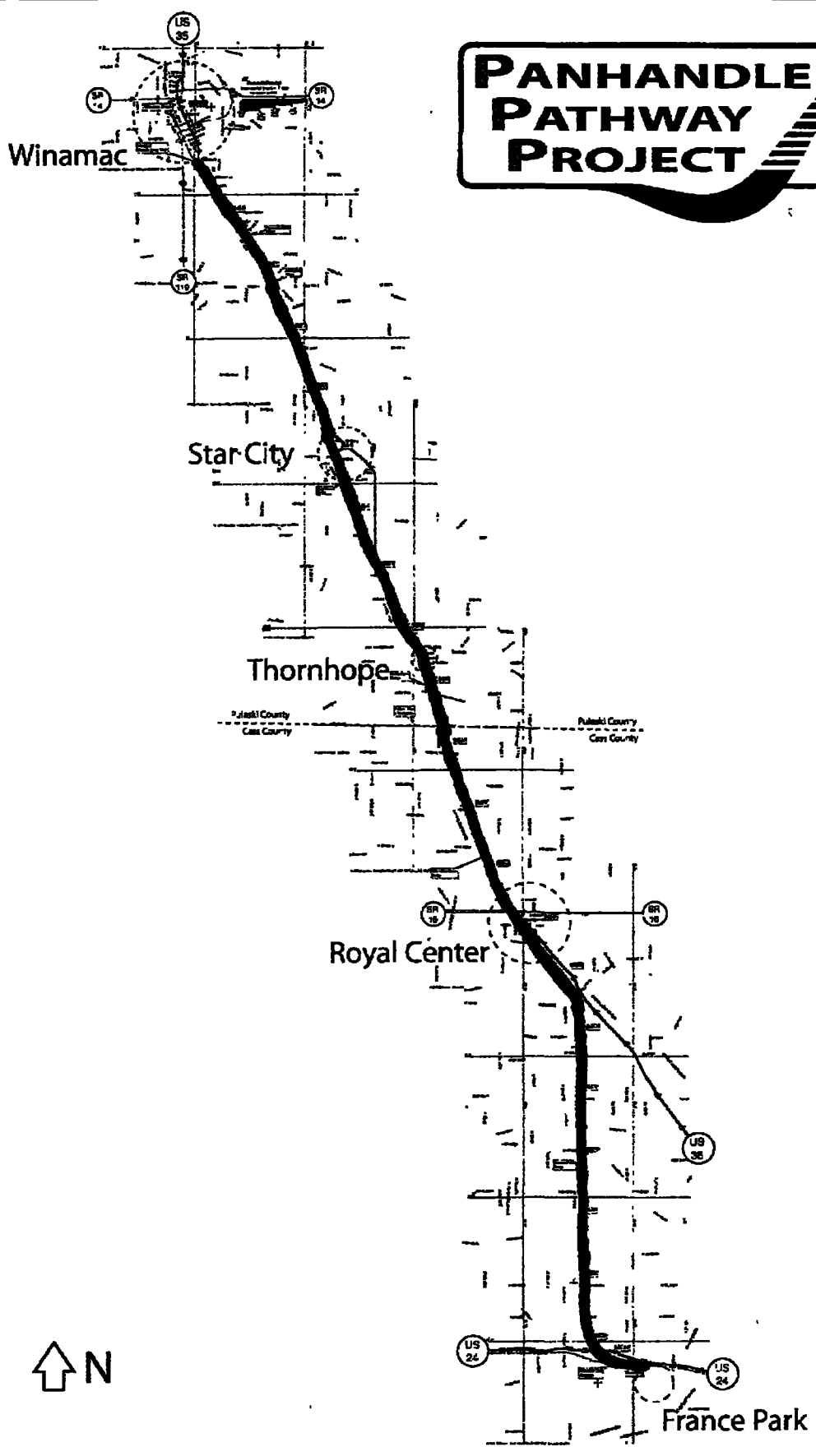
STB Docket No. AB-855 (Sub-No. 1X)

7. *This decision and notice is effective on its service date.*

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary

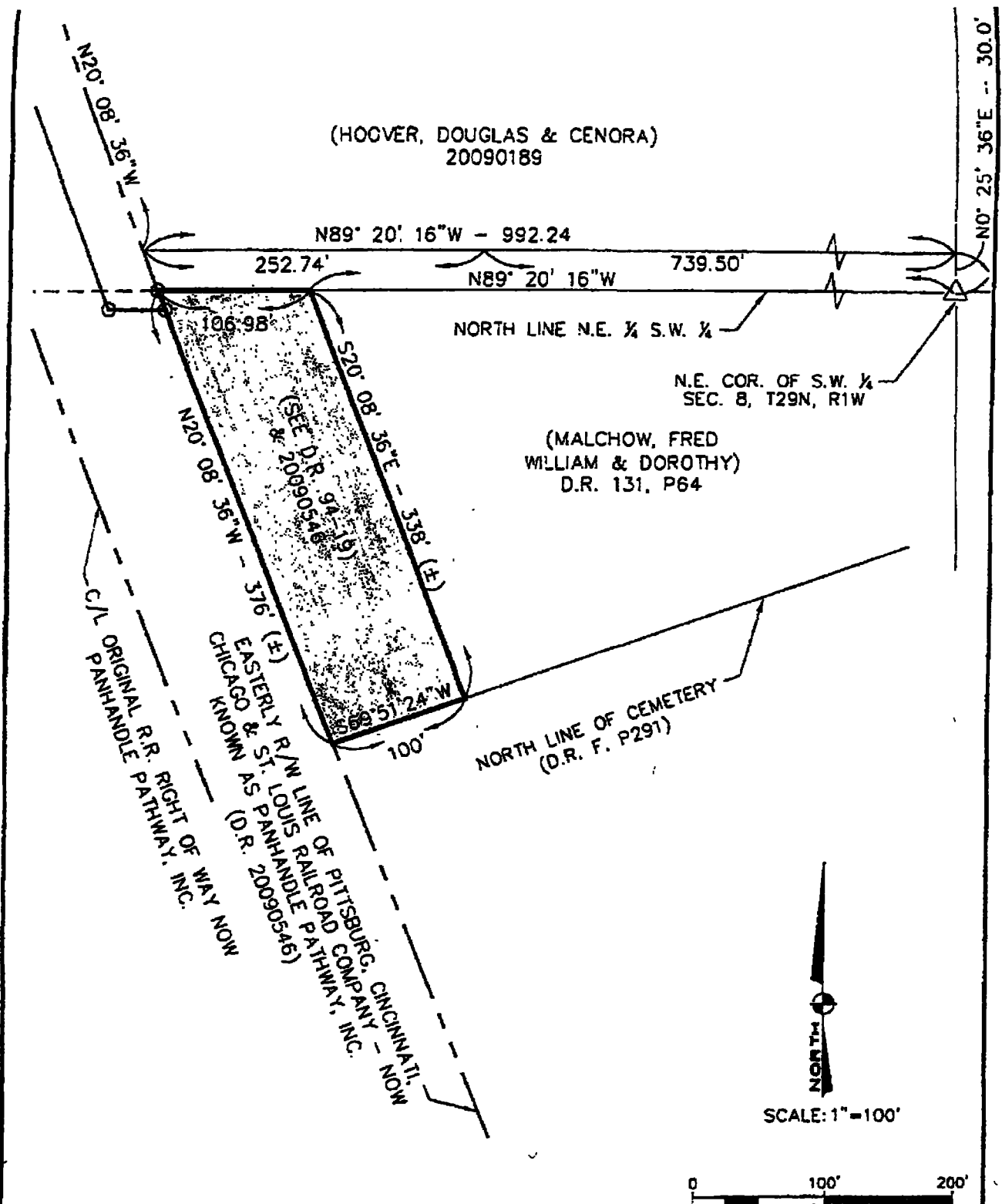
# PANHANDLE PATHWAY PROJECT



# AECOM

8902 VINCENTS CIRCLE, SUITE D  
INDIANAPOLIS, INDIANA 46268

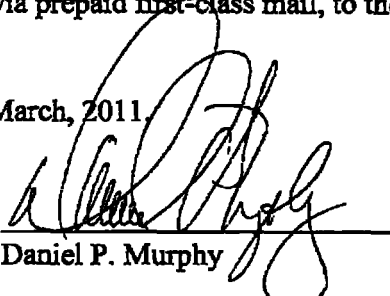
DATE: *Sept. 28, 2010*  
*Vasco J. Kirby*  
VASCO J. KIRBY  
Registered Land Surveyor SO235



## **CERTIFICATE OF SERVICE**

I certify that I this day have served copies of the foregoing Notice upon each of the following named parties by mailing copies thereof, via prepaid first-class mail, to their respective representatives.

Dated at Winamac, Indiana, this 27 day of March, 2011.

  
Daniel P. Murphy

Rail America, Inc.  
7411 Fullerton Street  
Suite 300  
Jacksonville, FL 32256

Vice President, Real Estate  
RailAmerica, Inc.  
4040 Broadway Street, Suite 200  
San Antonio, TX 78209-6300

Vice President, Litigation Counsel  
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7411 Fullerton Street, Suite 300  
Jacksonville, FL 32256